



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 9, 1995

Mr. James R. Raup  
McGinnis, Lockridge & Kilgore  
1300 Capitol Center  
919 Congress Avenue  
Austin, Texas 78701

OR95-255

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30732.

The Round Rock Independent School District (the "school district") received a request for copies of the school district's Talented and Gifted Program ("TAG") evaluation forms for all students. You contend that the requested information is excepted from required public disclosure under state and federal law. You have submitted for review one form as a representative sample of the requested information.<sup>1</sup>

Under section 552.114(a), information is excepted from disclosure "if it is information in a student record at an educational institution funded wholly or partly by state revenue." Section 552.026 incorporates into the Open Records Act the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), providing that the Open Records Act

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not address any other requested information to the extent the information is substantially different than that submitted to this office.

does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

*See also* Open Records Decision No. 431 (1985). FERPA provides the following:

No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of educational records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) . . . ) of students without the written consent of their parents to any individual, agency, or organization.

20 U.S.C. § 1232g(b)(1). "Education records" are records which:

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

*Id.* § 1232g(a)(4)(A). Sections 552.114(a) and 552.026 may not be used to withhold entire documents; the school district must delete information only to the extent "reasonable and necessary to avoid personally identifying a particular student" or "one or both parents of such a student." Open Records Decision No. 332 (1982) at 3. Thus, only information identifying or tending to identify students or their parents must be withheld from required public disclosure.

We have reviewed the TAG evaluation form submitted for our consideration. The school district must withhold any information that would identify a particular student or one or both parents of a student. For your convenience, we have marked the type of information that must be withheld under section 552.114 of the Government Code and FERPA. We note, however, that the school district may need to withhold more information on the remaining evaluations if the information would identify the student or one or both parents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records.

If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Margaret A. Roll". The signature is written in a cursive style with a large, stylized 'M' and 'R'.

Margaret A. Roll  
Assistant Attorney General  
Open Government Section

MAR/LBC/rho

Ref: ID# 30732

Enclosures: Marked documents

cc: Mr. Wayne Davison  
11213 Deadoak  
Austin, Texas 78759  
(w/o enclosures)